

REMARKS

Claims 1-18 are pending in the application. Claims 1-4 stand rejected. Claim 1 is amended to correct an informality. In light of the aforementioned amendment and accompanying remarks, Applicants respectfully request favorable reconsideration.

Applicants thank the Examiner for considering claims 5-18 to be allowable.

Claim Rejections - 35 U.S.C. §112

Claims 1-4 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention

Applicants have amended claim 1 to address the Examiner's rejection.

On the Merits

Claim Rejections - 35 U.S.C. §103

Claims 1-4 are rejected under 35 U.S.C. §102 as being anticipated by or, in alternative, under 35 U.S.C. §103(a) as obvious over *Kishi et al.* using as a reference *Nakanishi et al.*

Claims 1-4:

The Examiner uses *Kishi* (Stable Structures of Fe Nanowires on Cu(111)) in an attempt to disclose claim 1 of the present application. Applicants note that the *Kishi* article has a later publication date than the priority date of the present application.

That is, *Kishi* was published in July of 2003. The present application has an international filing date of June 23, 2004, but claims priority to Japanese Application 2003-179726 filed on June 24, 2003. As such, the present application has a priority date earlier than the publication date of the reference.

According to 35 U.S.C. § 365, “An international application designating the US shall be entitled to the right of priority based on a prior foreign application.” Applicants perfect priority by submitting a verified translation of Japanese Patent Application JP 2003-179726, filed June 24, 2003, along with a statement of verification, verifying that the accompanying translation is a true and faithful translation of the Japanese patent applicant into the English language. As such, Applicants perfected priority date is June 24, 2003. This date removes the *Kishi* reference from consideration under both 35 U.S.C. §§102 and 103.

Applicants also submit that claims 1-4 of the present application are supported by the priority document.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants’ undersigned attorney to arrange for an interview to expedite the disposition of this case.

Application No.: 10/561,616
Art Unit: 2811

Response
Attorney Docket No.: 053485

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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Attachments: Verified English Translation
English Translation of JP 2003-179726